

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

v.

SIMON GOGOLACK,

Defendant.

23-CR-99-LJV-JJM

NOTICE OF MOTION

MOTION BY:

John J. Morrissey, Assistant Federal Public
Defender

DATE, TIME & PLACE:

Before the Honorable Lawrence J. Vilardo, United
States District Court Judge, Robert H. Jackson
United States Courthouse, 2 Niagara Square,
Buffalo, New York, **the submitted papers.**

SUPPORTING PAPERS:

Affirmation of Assistant Federal Public Defender
John J. Morrissey, dated September 6, 2024

RELIEF REQUESTED:

A two-week extension to file objections to the
Decision and Order (Dkt. 200)

DATED:

Buffalo, New York, September 6, 2024

/s/ John J. Morrissey

John J. Morrissey

/s/ Jeffrey T. Bagley

Jeffrey T. Bagley

Assistant Federal Public Defender

Federal Public Defender's Office

300 Pearl Street, Suite 200

Buffalo, New York 14202

(716) 551-3341, (716) 551-3346 (Fax)

John_Morrissey@fd.org

Counsel for Defendant Simon Gogolack

**TO: Caitlin M. Higgins
Tiffany H. Lee
Joseph M. Tripi**

Nicholas Cooper

Casey L. Chalbeck

Assistant United States Attorneys

Western District of New York

138 Delaware Avenue, Federal Centre

Buffalo, New York 14202

UNITED STATES DISTRICT COURT
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UNITED STATES OF AMERICA,

23-CR-99-LJV-JJM

v.

AFFIRMATION

SIMON GOGOLACK,

Defendant.

JOHN J. MORRISSEY, affirms under penalty of perjury that:

1. I am an Assistant Federal Public Defender for the Western District of New York and was assigned to represent the above-named defendant, Simon Gogolack.

2. On August 23, 2024, Judge McCarthy issued a Decision and Order imposing sanctions on the government for its bad faith decision to ignore the discovery deadline in the case. *See* Dkt. 200. As Judge McCarthy acknowledged, the sanctions were less severe than defendants had requested. *Id.* at 5.

3. The deadline to object to that decision would be September 6, 2024.

4. The government moved to extend their deadline to appeal, and the Court granted that request. Dkts. 201 at 7; 202. The Court's order only extended the government's deadline and did not mention defendants' deadline. Dkt. 202 ("The government's appeal of Judge McCarthy's Decision and Order 200 is due by 9/20/2024.") (hyperlink removed).

5. Mr. Gogolack respectfully requests that the Court extend his deadline to object Judge McCarthy's Decision and Order (Dkt. 200). Given that Decision and Order's importance, counsel wishes to provide the Court with thorough briefing on the matter. But due to counsels'

case load and other commitments, counsel has not been able to fully research and draft objections. An additional two weeks should be sufficient.

6. Further, the Court has previously granted the government's extension request. The government's objection and the defense's objection will share a common factual basis and likely address similar issues. Judicial economy favors having those objections on the same briefing schedule.

7. The government, through Assistant United States Attorney Caitlin M. Higgins, does not object to this request.

WHEREFORE, Mr. Gogolack respectfully requests that the Court extend his deadline to file objections/an appeal to Judge McCarthy's Decision and Order (Dkt. 200) by two weeks.

DATED: Buffalo, New York, September 6, 2024

Respectfully submitted,

/s/ John J. Morrissey
John J. Morrissey

/s/ Jeffrey T. Bagley
Jeffrey T. Bagley
Assistant Federal Public Defender
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